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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Unithai Maritime Limited

Plaintiff,

07 Civ. 03155(DC)

- against -

CPM Corporation and Vasteast
International Limited

Defendants.

STATUS REPORT

Plaintiff, by its attorneys, Cichanowicz, Callan, Keane, Vengrow & Textor, LLP, hereby responds to the issue regarding service raised in the Court's order dated September 17, 2007. For the reasons explained herein, service is not governed by Federal Rule of Civil Procedure 4(m) and plaintiff respectfully requests that this action remain open pending the outcome of the London arbitration between the parties.

By way of background, this suit was brought pursuant to Rule B of the Supplemental Rules for Admiralty and Maritime Claims and 9 U.S.C. § 8, seeking security in aid of maritime claims that plaintiff has against the defendants that are subject to London arbitration. On April 20, 2007 the Court issued an order authorizing issuance of process of maritime attachment and garnishment with respect to defendant CPM Corporation. On May 21, 2007, the Court issued an order authorizing issuance of process of maritime attachment and garnishment with respect to defendant Vasteast International. Thereafter, we began serving process of maritime attachment and garnishment on various New York banks seeking to capture funds of the defendants passing through the banks. On June 1, 2007 we received a notification by fax (copy

attached hereto) from garnishee bank HSBC advising that \$60,210.45 belonging to defendant CPM Corporation has been restrained by the bank pursuant to a process of maritime attachment and garnishment we served on the bank (the funds are still under restraint). Funds belonging to defendant Vasteast International have yet to be captured.

Service of process of maritime attachment and garnishment on banks pursuant to Rule B is not governed by Rule 4. Rule B jurisdiction over a defendant is quasi in rem jurisdiction. Winter Storm Shipping v. TPI, 310 F.3d 263, 268 (2d Cir. 2002). Indeed, the quasi in rem nature is underscored by the fact that under Rule B(3)(b), the defendant's answer must be served within 30 days "after process has been executed, whether by attachment of property or service on the garnishee". Thus, jurisdiction over a defendant is achieved by attaching or garnishing defendant's property in this district.

The said attachment of funds at HSBC established jurisdiction over defendant CPM Corporation. Under Rule B(3)(b), defendant CPM Corporation's deadline for filing an answer has passed. However, since the merits of plaintiff's claim against CPM Corporation are to be decided in London arbitration, we have not taken steps to take a default against CPM Corporation.

Even if this case had not been brought under Rule B (which, of course, it was), Rule 4(m) would not be applicable. Rule 4(m) does not apply to a defendant in a foreign country. In this case, both defendants are Hong Kong corporations with no presence in New York (Verified Complaint, para. 3; Amended Verified Complaint, para. 3; Declaration Pursuant to Local Admiralty Rule B.1; Second Declaration Pursuant to Local Admiralty Rule B.1).

For the above reasons, the Court should continue to keep this action open pending the outcome of the London arbitration between the parties.

Dated: New York, New York
September 19, 2007

Respectfully submitted,
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